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OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

Law Department (Legal Advice)

Drafting Section

Notification

LD/1/9/83-(D)

The Merchant Shipping (Amendment) Act, 1983 (Act No. 12 of 1983) which has been assented to by the President of India on 18th May, 1983 and published in the Gazette of India, Extraordinary, Part II, Section I dated 18-5-1983, is hereby republished for the general information of the public.

B. S. Subbanna, Under Secretary (Drafting) to the Government of Goa, Daman and Diu.

Panaji, 15th September, 1983.

The Merchant Shipping (Amendment) Act, 1983

AN

ACT

further to amend the Merchant Shipping Act, 1958.

Be it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

1. *Short title.*— This Act may be called the Merchant Shipping (Amendment) Act, 1983.

2. *Substitution of new section for section 2.*— For section 2 of the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

“2. *Application of Act.*— (1) Unless otherwise expressly provided, the provisions of this Act which apply to—

- (a) any vessel which is registered in India; or
- (b) any vessel which is required by this Act to be so registered; or

(c) any other vessel which is owned wholly by persons to each of whom any of the descriptions specified in clause (a) or in clause (b) or in clause (c), as the case may be, of section 21 applies,

shall so apply wherever the vessel may be.

(2) Unless otherwise expressly provided, the provisions of this Act which apply to vessels other than those referred to in sub-section (1) shall so apply only while any such vessel is within India, including the territorial waters thereof.”

3. *Amendment of section 3.*— In section 3 of the principal Act, in clause (37), for the figures, letters and words “17th day of June, 1960”, the figures, letters and words “1st day of November, 1974” shall be substituted.

4. *Amendment of section 22.*— In section 22 of the principal Act, the following *Explanation* shall be inserted at the end, namely:—

‘*Explanation.*— For the purposes of this section, “ship” does not include a fishing vessel.’

5. *Amendment of section 74.*— In section 74 of the principal Act, for clause (j) of sub-section (2), the following clause shall be substituted, namely:—

“(j) the fees that may be levied for the survey or inspection of any ship for the purposes of registration and the manner in which such fees may be collected;”

6. *Amendment of section 87.*— In section 87 of the principal Act, after clause (d), the following clause shall be inserted, namely:—

“(dd) fix the fees that may be levied for survey or inspection of a ship for ensuring compliance with the provisions of this Part and provide the manner in which such fees may be collected;”

7. *Amendment of section 175.*— In section 175 of the principal Act, after clause (e) of sub-section (2), the following clause shall be inserted, namely:—

“(f) the fees that may be levied for the survey or inspection of crew spaces and for scrutiny of plans of crew accommodation spaces and the manner in which such fees may be collected;”

8. *Amendment of section 282.*— In section 282 of the principal Act,—

(a) in clause (w), the word “and” occurring at the end shall be omitted;

(b) after clause (w), the following clause shall be inserted, namely:—

“(ww) the fees that may be levied for the survey or inspection of pilgrim ships with respect to sanitary conditions, provision of stores, medical facilities available on such

ships and such other purposes that may be relevant for compliance with the provisions of this Part relating to pilgrim ships and the manner in which such fees may be collected;”.

9. *Amendment of section 344.* — In section 344 of the principal Act, after clause (c) of sub-section (2), the following clause shall be inserted, namely:—

“(d) the fees to be charged for the survey or inspection of hull, machinery, boilers, electrical appliances and other fittings and the materials used for their construction, fire appliances, life saving appliances, radio communications equipment, radar, echo sounding device and gyro compass, or testing or approval of any of the foregoing equipments or materials used for their manufacture, or examination of plans of construction of any part of ship's hull, machinery, electrical appliances and other equipment aforesaid and the manner in which such fees may be recovered.”.

10. *Insertion of new Part XB.* — After Part XA of the principal Act, the following Part shall be inserted, namely:—

PART XB

Civil Liability For Oil Pollution Damage

352G. *Application.* — This Part applies to —

- (a) every Indian ship wherever it is; and
- (b) every foreign ship while it is at a port or place in India or within the territorial waters of India or any marine areas adjacent thereto over which India has, or may hereafter have, exclusive jurisdiction in regard to control of marine pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, or any other law for the time being in force.

352H. *Definitions.* — (1) In this Part, unless the context otherwise requires, —

- (a) “incident” means any occurrence, or series of occurrences having the same origin, which causes pollution damage;
- (b) “oil” means any persistent oil such as crude oil, fuel oil, heavy diesel oil, lubricating oil and whale oil, whether carried on board a tanker as cargo or fuel;
- (c) “owner” means —
 - (i) the person registered as owner of the ship and includes the operator who for the time being is in charge of the ship and the master of the ship; or
 - (ii) in the absence of registration, the person owning the ship; or
 - (iii) in the case of a tanker owned by a foreign State, the person registered in that State as operator of the ship;

(d) “pollution damage” means loss or damage caused outside the ship by contamination resulting from escape or discharge of oil from that ship,

wherever such escape or discharge occurs, and includes the costs of preventive measures and further loss or damage caused by preventive measures; so, however, that the provisions of clause (a) of sub-section (1) of section 352B shall not apply to such loss or damage;

(e) “preventive measures” means any reasonable measures taken by any person after the incident to prevent or minimise pollution damage.

(2) In this Part —

(a) the expression “franc” shall have the same meaning as is assigned to it in clause (b) of section 352; and

(b) the expression “tonnage” shall mean the tonnage of a ship determined in accordance with the provisions of section 352B and where it is not so determinable, it shall mean forty per cent. of the weight in tons of oil cargo the ship is capable of carrying.

352I. *Liability of owner.* — (1) Save as otherwise provided in sub-sections (2), (3) and (4), the owner at the time of an incident, or, where the incident consists of a series of occurrences, at the time of first of such occurrences, shall be liable for any pollution damage caused by oil which has escaped or been discharged from the ship as a result of the incident.

(2) No liability for pollution damage shall attach to the owner under sub-section (1), if he proves that the pollution damage —

(a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or

(b) was wholly caused by an act or omission done with intent to cause such damage by any other person; or

(c) was wholly caused by the negligence or other wrongful act of any government or other authority responsible for the maintenance of lights or other navigational aids in exercise of its functions in that behalf.

(3) Where, with respect to any incident, the owner proves that the pollution damage resulted, either wholly or partially, from an act or omission done, with intent to cause such damage, by the person who suffered damage, or from the negligence of that person, the owner shall be exonerated wholly or, as the case may be, partially, from liability to that person.

(4) Where in any incident, pollution damage results from escape or discharge of oil from two or more ships, the owners of all such ships shall be jointly and severally liable for all such damage which is not reasonably separable.

(5) No claim for pollution damage shall be made against any owner otherwise than in accordance with the provisions of this section.

(6) No claim for pollution damage shall be made against any servant or agent of the owner.

352J. Limitation of liability. — (1) Save as otherwise provided in sub-section (2), the owner may limit his liability under section 352I in respect of any incident to an aggregate amount of —

(a) two thousand francs for each ton of the ship's tonnage; or

(b) two hundred and ten million francs, whichever is lower:

(2) Where any incident causing pollution damage occurs as a result of the actual fault of the owner, he shall not be entitled to limit his liability under sub-section (1).

352K. Constitution of limitation fund. — (1) (a) Any owner desiring to avail of the benefit of limitation of his liability under sub-section (1) of section 352J shall make an application to the High Court for constitution of a limitation fund (hereafter in this Part referred to as fund).

(b) Such fund may be constituted either by depositing the sum with the High Court or by furnishing bank guarantee or such other security as, in the opinion of the High Court, is satisfactory.

(2) (a) The insurer or any other person providing financial security to the owner may apply to the High Court for constitution of the fund under sub-section (1) and any fund so constituted shall have the same effect as if it were constituted by the owner.

(b) Such fund may be constituted even in cases where sub-section (2) of section 352J applies but in any such event constitution of the fund shall not prejudice the rights of any claimant against the owner for full compensation exceeding the amount deposited or secured in the fund.

(3) The amount in francs to be deposited or secured in the fund under sub-section (1) shall be converted in rupees on the basis of official value in rupees of the gold contents of franc on the date of constitution of the fund.

352L. Acquisition of right for compensation by subrogation. — (1) Where the owner or any of his servants or agents or any other person providing him insurance or other financial security has, as a result of incident in question, paid any compensation to any claimant, such person shall, up to the amount so paid by him, be entitled to acquire by subrogation the rights to which the claimant so compensated would be entitled to.

(2) Where the owner or any other person providing him insurance or other financial security establishes that he may, at a later date, be compelled to pay to any person, in whole or in part, any amount by way of compensation for pollution damage caused by the incident with respect to which he would have been entitled to acquire by subrogation the right of the claimant had the compensation been paid before the fund was distributed, the High Court may order that sufficient amount from the fund may provisionally be set aside to enable the owner or such other person to enforce his claim against the fund at a later date.

352M. Consolidation of claim and distribution of fund. — (1) The High Court shall consolidate all claims against the fund including those arising under section 352L.

(2) Any claim in respect of expenses reasonably incurred or sacrifices reasonably made by the owner voluntarily to prevent or minimise pollution damage shall rank equally with other claims against the fund.

(3) Subject to the provisions of sub-section (2) of section 352L, the High Court shall distribute the amount in the fund among all claimants in proportion to their established claims.

352N. Compulsory insurance or other financial guarantee. — (1) The owner of every Indian ship which carries 2000 tons or more oil in bulk as cargo shall, in respect of such ship, maintain an insurance or other financial security for an amount equivalent to —

(a) two thousand francs for each ton of ship's tonnage; or

(b) two hundred and ten million francs, whichever is lower.

(2) In respect of every Indian ship which maintains insurance or other financial security under sub-section (1), there shall be issued by the Director-General a certificate in such form and giving such particulars as may be prescribed.

(3) On an application by the owner or agent of any foreign ship, the Director-General may issue a certificate under sub-section (2) in respect of such foreign ship on production of satisfactory evidence relating to maintenance of insurance or other financial security in accordance with the provisions of the International Convention on Civil Liability for Oil Pollution Damage signed at Brussels on the 29th day of November, 1969.

(4) For every certificate issued under sub-sections (2) and (3) there shall be charged such fee as may be prescribed.

352O. Acceptance of certificates issued outside India. — Any certificate issued by a competent authority in any country outside India to a ship registered in that country or any certificate issued by a competent authority of any country which is a contracting party to the International Convention on Civil Liability for Oil Pollution Damage signed at Brussels on the 29th day of November, 1969, to any ship wherever registered, shall be accepted at any port or place in India as if it were issued under this Act.

352P. Ban on entering or leaving an Indian port without certificate. — (1) No Indian ship, which has on board 2000 tons or more oil in bulk as cargo shall enter or leave or attempt to enter or leave any port or place in India unless it carries on board a certificate issued under sub-section (2) of section 352N or a certificate accepted under section 352O.

(2) No ship other than an Indian ship carrying 2000 tons or more oil in bulk as cargo, wherever registered, shall enter or leave or attempt to enter or leave any port or place in India unless it carries

on board a certificate issued under sub-section (3) of section 352N or a certificate accepted under section 352O.

(3) No customs officer shall grant inward entry or outward clearance to any ship to which sub-section (1) or, as the case may be, sub-section (2) applies, unless its master produces a certificate required under the respective sub-section.

352Q. *Government ships.* — Nothing in this Part shall apply to any ship of war or any ship for the time being used by the Government of any country for purposes other than commercial purposes.

352R. *Power to make rules.* — The Central Government may make rules prescribing —

(a) the form of certificate to be issued by the Director-General under sub-section (2) of section 352N and the particulars which it may contain;

(b) fees which may be charged for issue of certificates under section 352N.

11. *Substitution of new Part for Part XIA.* — For Part XIA of the principal Act, the following Part shall be substituted, namely:—

PART XIA

Prevention and Containment of Pollution of the Sea by Oil

356A. *Commencement and application.* — (1) The provisions of this Part shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Part.

(2) This Part shall apply to —

(a) tankers of one hundred and fifty tons gross or more;

(b) other ships of five hundred tons gross or more; and

(c) off-shore installations.

356B. *Definitions.* — In this Part, unless the context otherwise requires, —

(a) "cargo" includes ballast and ship's stores and fuel;

(b) "coast" includes any island forming part of India;

(c) "coastal waters" means any part of the territorial waters of India, or any marine areas adjacent thereto over which India has, or, may hereafter have exclusive jurisdiction in regard to control of marine pollution under the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976, or any other law for the time being in force;

(d) "Convention" means the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, signed in London on the 12th day of May, 1954, as amended from time to time;

(e) "discharge", in relation to oil or oily mixture, means any discharge or escape, however caused;

(f) the expression "from nearest land" shall mean the baseline from which the territorial sea of the territory in question is established in accordance with the Geneva Convention on the Territorial Sea and the Contiguous Zone, 1958, except that in relation to north-eastern coast of Australia it shall mean from a line drawn from a point on the coast of Australia in latitude 11° South, longitude 142°08' East to a point in latitude 10°35' South, longitude 141°55' East —

thence to a point latitude 10°00' South, longitude 142°00' East

thence to a point latitude 9°10' South, longitude 143°52' East

thence to a point latitude 9°00' South, longitude 144°30' East

thence to a point latitude 13°00' South, longitude 144°00' East

thence to a point latitude 15°00' South, longitude 146°00' East

thence to a point latitude 18°00' South, longitude 147°00' East

thence to a point latitude 21°00' South, longitude 153°00' East

thence to a point on the coast of Australia in latitude 24°42' South, longitude 153°15' East;

(g) "instantaneous rate of discharge of oil content" means the rate of discharge of oil in litres per hour at any instant divided by the speed of the ship in knots at the same instant;

(h) "mile" means a nautical mile of 1,852 metres;

(i) "off-shore installation" means an installation, whether mobile or fixed, which is used or is intended to be used for underwater exploration or exploitation of crude oil, petroleum or other similar mineral oils, under lease, licence or any other form of contractual arrangement and includes —

(a) any installation which could be moved from place to place under its own motive power or otherwise; and

(b) a pipe-line;

(j) "oil" means —

(i) crude oil;

(ii) fuel oil;

(iii) heavy diesel oil conforming to such specifications as may be prescribed; and

(iv) lubricating oil;

(k) "oily mixture" means a mixture with any oil content;

(l) "oil reception facilities" in relation to a port, means facilities for enabling vessels using the port to discharge or deposit oil residues;

(m) "ship" means any sea-going vessel of any type whatsoever, including a floating craft, whether self-propelled or towed by another vessel, making a sea-voyage;

(n) "tanker" means a ship in which greater part of the cargo space is constructed or adapted for the carriage of liquid cargoes in bulk and which is not, for the time being, carrying a cargo other than oil in that part of its cargo space.

Provisions for Prevention of Pollution

356C. *Prohibitions as to discharge of oil or oily mixture.* — (1) No oil or oily mixture shall be discharged from an Indian tanker anywhere into the sea or from a foreign tanker anywhere within the coastal waters of India except where each of the following conditions is satisfied, namely: —

- (a) the tanker is proceeding en-route;
- (b) the instantaneous rate of discharge of oil content does not exceed sixty litres per mile;
- (c) the total quantity of oil discharged does not exceed 1/15,000 part of the total carrying capacity of the tanker;
- (d) the tanker is more than 50 miles from nearest land; and
- (e) the tanker is not within the designated areas notified as such under sub-section (6) of section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976:

80 of 1976.

Provided that the provisions of this sub-section shall not apply to —

- (i) the discharge of ballast from a cargo tank which, since the cargo was last carried therein, has been so cleaned that any affluent therefrom would, if discharged from a stationary tanker into clean calm waters on a clear day, produce no visible traces of oil on the surface of the water; or
- (ii) the discharge of oil or oily mixture from machinery space bilges, if any such discharge is made in compliance with the provisions of sub-section (2) as if it were made from a ship other than a tanker.

(2) No oil or oily mixture shall be discharged from an Indian ship other than a tanker anywhere into the sea or from a foreign ship other than a tanker within the coastal waters of India except where each of the following conditions is satisfied, namely: —

- (a) the ship is proceeding en-route;
- (b) the instantaneous rate of discharge of oil content does not exceed sixty litres per mile;
- (c) the oil content of the discharge is less than one hundred parts per million parts of the oily mixture;
- (d) the discharge is made as far from nearest land as practicable; and
- (e) the ship is not within the designated areas, notified as such under sub-section (6) of section 7 of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976.

80 of 1976.

(3) The discharge of oil or oily mixture into the sea from any off-shore installation is hereby prohibited.

356D. *Prohibition not to apply in certain cases.* — Nothing in section 356C shall apply to —

- (a) the discharge of oil or oily mixture from a ship or an off-shore installation for the purpose of —
 - (i) safety of such ship or off-shore installation; or
 - (ii) preventing damage to such ship or off-shore installation or cargo, if any, on board such ship or off-shore installation; or
 - (iii) saving life at sea;
- (b) the escape of oil or oily mixture resulting from damage to or unavoidable leakage from a ship or an off-shore installation if, after occurrence of the leakage, all reasonable precautions have been taken for the purpose of preventing or minimising such escape;
- (c) the discharge of oily mixture from the bilges of a ship during the period of twelve months following the date on which this section comes into force.

356E. *Equipment in ships to prevent oil pollution.* — For the purpose of preventing or reducing discharges of oil and oily mixtures into the sea, the Central Government may make rules requiring Indian ships to be fitted with such equipment and to comply with such other requirements (including requirements for preventing the escape of fuel oil or crude oil or heavy diesel oil into bilges) as may be prescribed.

356F. *Oil record book.* — (1) Every Indian tanker and every other Indian ship which uses oil as fuel shall maintain on board the tanker or such other ship an oil record book in the prescribed form:

Provided that different forms may be prescribed for tankers and other ships.

(2) The manner in which the oil record book shall be maintained, the nature of entries to be made therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof, and all other matters relating thereto shall be such as may be prescribed having regard to the provisions of the Convention.

356G. *Inspection and control of ships to which the Convention applies.* — (1) A surveyor or any person authorised in this behalf may, at any reasonable time, go on board a ship to which any of the provisions of this Part applies, for the purposes of —

- (a) ensuring that the prohibitions, restrictions and obligations imposed by or under this Part are complied with;
- (b) satisfying himself about the adequacy of the measures taken to prevent the escape of oil or oily mixture from the ship;
- (c) ascertaining the circumstances relating to an alleged discharge of oil or oily mixture from the ship in contravention of the provisions of this Part; and
- (d) inspecting the oil record book.

(2) The surveyor or any such person may, if necessary, make, without unduly delaying the ship, a true copy of any entry in the oil record book of the

ship and may require the master of the ship to certify the copy to be a true copy and such copy shall be admissible as evidence of the facts stated therein.

356H. *Information regarding contravention of the provisions of the Convention.*—(1) If, on report from a surveyor or other persons authorised to inspect a vessel under section 356G, the Central Government is satisfied that any provision of the Convention has been contravened anywhere by a foreign ship, being a ship to which the provisions of the Convention apply, it shall transmit particulars of the alleged contravention to the Government of the country to which the ship belongs.

(2) On receipt of information from the Government of any country which has ratified the Convention that an Indian ship has contravened any provisions of the Convention, the Central Government may, if it deems it necessary so to do, request such Government to furnish further details of the alleged contravention, and if satisfied that sufficient evidence is available to establish contravention of any of the provisions of this Part or rules made thereunder, take appropriate action against the owner or master and intimate the reporting Government of the action so taken.

356-I. *Oil reception facilities at ports in India.*—

(1) Notwithstanding anything contained in any other law for the time being in force, in respect of every port in India, the powers of the port authority shall include the power to provide oil reception facilities.

(2) A port authority providing oil reception facilities or a person providing such facilities by arrangement with the port authority, may make charges for the use of the facilities at such rates and may impose such conditions in respect of the use thereof as may be approved, by notification in the Official Gazette, by the Central Government in respect of the port.

(3) Where the Central Government is satisfied that there are no oil reception facilities at any port in India or that the facilities available at such port are not adequate for enabling ships calling at such port to comply with the requirements of the Convention, the Central Government may, after consultation with the port authority in charge of such port, direct, by order in writing, such authority to provide or arrange for the provision of such oil reception facilities as may be specified in the order.

(4) The Central Government may, by notification in the Official Gazette, specify the ports in India having oil reception facilities in accordance with the requirements of the Convention.

Explanation.—For the purpose of this section, "port authority" means,—

(a) in relation to any major port, the Board of Trustees in respect of that port constituted under any law for the time being in force;

(b) in relation to any other port, the Conservator of the Port, within the meaning of section 7 of the Indian Ports Act, 1908.

15 of 1908.

Provisions for Containment of Accidental Pollution

356J. *Power to give a notice to owner etc., of polluting ship.*—(1) Where the Central Government is satisfied that—

(a) oil is escaping or is likely to escape from a tanker, a ship other than a tanker or any off-shore installation; and

(b) the oil so escaped or likely to escape is causing or threatens to cause pollution of any part of coasts or coastal waters of India,

it may, for the purpose of minimising the pollution already caused, or, for preventing the pollution threatened to be caused, require—

(i) the owner, agent, master or charterer of the tanker,

(ii) the owner, agent, master or charterer of the ship other than a tanker,

(iii) the owner, agent, master, charterer or operator of a mobile off-shore installation,

(iv) the owner, operator, lessee or licensee of off-shore installation of any other type,

or all or any of them, by notice served on him or as the case may be on them, to take such action in relation to the tanker, ship other than a tanker, mobile off-shore installation, or, as the case may be, off-shore installation of any other type or its cargo or in relation to both, as may be specified in such notice.

(2) Without prejudice to the generality of sub-section (1), the notice issued under that sub-section may require the person or persons on whom such notice is served to take action relating to any or all of the following matters, namely:—

(a) action for preventing the escape of oil from the tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type;

(b) action for removing oil from the tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type in such manner, if any, and to such place, if any, as may be specified in the notice;

(c) action for removal of the tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type to a place, if any, as may be specified in the notice;

(d) action for removal of the oil slicks on the surface of the sea in such manner, if any, as may be specified in the notice;

(e) action to disperse the oil slicks on the surface of the sea in such manner, if any, as may be specified in the notice.

(3) The Central Government may, by any notice issued under sub-section (1), prohibit the removal—

(a) of the tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type, from a place specified in the notice;

(b) from the tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any type, of any cargo or stores as may be specified in the notice,

except with its previous permission and upon such conditions, if any, as may be specified in the notice.

(4) Notwithstanding anything contained in sub-section (2), the Central Government may, if it is of the opinion that the pollution caused or likely to be caused has or may present a grave emergency, proceed to take such measures as may be deemed necessary and any measures so taken shall be deemed to have been taken under section 356K.

356K. Powers to take measures for preventing or containing oil pollution.— (1) Where any person fails to comply, or fails to comply in part, with any notice served on him under section 356J, the Central Government may, whether or not such person is convicted of an offence under this Part by reason of his having so failed to comply, cause such action to be taken as it may deem necessary for—

(i) carrying out the directives given in the notice issued under section 356J; and

(ii) containing the pollution already caused or preventing the pollution threatened to be caused, of coastal waters or, as the case may be, of any part of the coast of India by oil escaped or threatening to escape from the tanker, a ship other than a tanker, a mobile off-shore installation or off-shore installation of any other type.

(2) Subject to the provisions of Part XB, any expenditure or liability incurred by the Central Government in, or by reason of, the exercise of powers under sub-section (1) in relation to any tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type in respect of which a notice had been issued under section 356J, or its cargo of oil that had escaped or was discharged into the sea, shall be a debt due to the Central Government by the person or persons on whom the notice was served and may be recovered from that person, or as the case may be, from all or any of those persons and shall be a charge upon all or any tanker, ship other than a tanker, mobile off-shore installation or off-shore installation of any other type owned by that person or persons which may be detained by the Central Government until the amount is paid:

Provided that provisions of Part XB of this Act shall not apply to measures taken in respect of any off-shore installation which is not a ship within the meaning of this Act except that in the event of pollution damage caused by any such off-shore installation the person who is liable for the damage may claim exoneration from any liability if he proves that such damage—

(a) resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character; or

(b) was wholly caused by an act or omission done with intent to cause that damage by any other person; or

(c) was wholly caused by the negligence or other wrongful act of any government or other authority responsible for the maintenance of lights or other navigational aids in exercise of its functions in that behalf.

356L. Power of the Central Government to give directions to certain ships to render certain services.

— (1) Where for the purposes of taking any measures under sub-section (1) of section 356K, services of any Indian ship become necessary for—

(i) lightening or transporting any cargo or equipment from or to the polluting ship; or

(ii) providing any assistance to any other ship or equipment engaged in rendering services under clause (i),

the Central Government may, if it deems it necessary so to do, direct, by an order in writing, the owner of any Indian ship, tug, barge or any other equipment to provide such services or assistance as may be specified in that order.

(2) The owner of any ship, tug, barge or any other equipment with respect to which an order under sub-section (1) has been made shall be entitled to tariff rates of freight and charter hire at reasonable rates having regard to current market conditions:

Provided that where tariff rates of freight are not fixed or where there is any dispute about reasonable rate of charter hire, the freight or, as the case may be, charter hire, shall be paid at such rates as may be fixed by the Director-General by an order in writing.

(3) Where in pursuance of the proviso to sub-section (2), the Director-General makes any order fixing rates of freight or charter hire, he shall determine reasonability of such rates of freight or charter hire by examining such witnesses, documents and accounts as he may deem necessary.

356M. Oil pollution cess.— (1) With effect from such date as the Central Government may, by notification in the Official Gazette, specify, there shall be levied on every ship calling at any port in India being a ship which carries oil as cargo, a cess to be called Oil Pollution Cess (hereafter in this Part referred to as cess) at such rate not exceeding fifty paise,—

(a) in respect of each tonne of oil imported by a ship into India in bulk as a cargo;

(b) in respect of each tonne of oil shipped from any place in India in bulk as a cargo of a ship,

as the Central Government may, by notification in the Official Gazette, fix:

Provided that no cess shall be levied on a ship at any port if the ship produces evidence of having paid such levy at the same or any other port in India within a period of three months immediately preceding its present call at the port.

(2) The cess shall be collected by such officers and in such manner as the Central Government may prescribe in this behalf and shall, after deduction of such costs of collection, if any, as the Central Government may determine, be paid to such authority as the Central Government may specify.

(3) The proceeds of the cess shall, after due appropriation made by Parliament by law, be utilised for the purpose of providing oil reception facilities and equipments and materials for combating oil pollution at various ports in India and for such

other like purposes as the Central Government may, by notification in the Official Gazette, from time to time, specify.

356N. Refusal of port clearance.—The officer whose duty it is to grant a port clearance for any ship shall not grant the port clearance until the amount of cess payable under section 356M has been paid or until security for the payment thereof has been given to his satisfaction.

356O. Power to make rules.—(1) The Central Government may, having regard to the provisions of the Convention, make rules to carry out the purposes of this Part.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), such rules may—

(a) prescribe the specifications of heavy diesel oil for the purposes of sub-clause (iii) of clause (j) of section 356B;

(b) prescribe the equipment to be fitted in Indian ships and other requirements to be complied with by those ships for the purposes of section 356E;

(c) prescribe the forms of oil record books for tankers and other ships, the manner in which such books shall be maintained, the nature of the entries to be made therein, the time and circumstances in which such entries shall be made, the custody and disposal thereof and all other matters relating thereto for the purposes of section 356F;

(d) prescribe the fees which may be levied for inspection of oil monitoring system, oily water separator, oil content metre, crude oil washing system, inert gas system or other equipments or contrivances carried out on board for preventing pollution of the sea by oil and the manner in which such fees may be collected;

(e) specify the officers who shall collect the cess and the manner in which the cess shall be collected.

12. Insertion of new section 411A.—After section 411 of the principal Act, the following section shall be inserted, namely:—

“411A. Powers of the Central Government to protect interests of Indian shipping from undue foreign intervention.—(1) If it appears to the Central Government—

(a) that measures have been taken by or under the law of any foreign country for regulating or controlling the terms or conditions upon which goods or passengers may be carried by sea, or the terms or conditions of contracts or arrangements relating to such carriage; and

(b) that such measures, in so far as they apply to things done or to be done outside the territorial jurisdiction of that country by persons carrying on lawful business in India, constitute an infringement of the jurisdiction which belongs to India, it may, by an order in writing, direct that this section shall apply to those measures either in whole or to such extent as may be specified in the order.

(2) Where an order issued under sub-section (1) is in force in relation to any measures, it shall be the duty of every person in India who carries on business consisting or comprising of the carriage of goods or passengers by sea to give notice to the Central Government of any requirement or prohibition imposed or threatened to be imposed on him pursuant to such measures so far as this section applies to him, including any requirement to submit any contract or other document for approval thereunder.

(3) Where a notice under sub-section (2) is received from any person or there are grounds to believe that a notice is likely to be received, the Central Government may, by an order in writing, give to such person directions prohibiting compliance with any such requirement or prohibition as it considers proper for maintaining the jurisdiction of India.

(4) Any directions given by the Central Government under sub-section (3) may be either general or special and may prohibit compliance with any requirement or prohibition either absolutely or in such cases or subject to such conditions, as to consent or otherwise, as may be specified in the order.

(5) If it appears to the Central Government that any person in India has been or may be required to produce or furnish to any court, tribunal or authority of a foreign country any commercial document which is not within the territorial jurisdiction of that country or any commercial information to be compiled from documents not within the territorial jurisdiction of that country and that the requirement constitutes or would constitute an infringement of the jurisdiction which belongs to India, the Central Government may, by an order in writing, give directions to that person, prohibiting him from complying with the requirement except to such extent or subject to such conditions as may be specified in the order.”

13. Amendment of section 417.—In section 417 of the principal Act, in sub-section (1), after the words “sailing vessel”, the brackets and words “(other than a sailing vessel solely engaged in fishing for profit)” shall be inserted.

14. Amendment of section 435.—In section 435 of the principal Act, for clause (o) of sub-section (2), the following clause shall be substituted, namely:—

“(o) the fees which may be levied for the issue or re-issue of certificates of registry, for the survey or inspection of sailing vessels before issue of such certificates, for the inspection of sailing vessels and for all other purposes of this Part and the manner in which such fees may be recovered;”.

15. Insertion of new Part XVA.—After Part XV of the principal Act, the following Part shall be inserted, namely:—

PART XVA

Fishing Boats

435A. Application of Part.—Save as otherwise provided, this Part applies to every Indian fishing boat.

435B. Definition.—For the purposes of this Part, “Indian fishing boat” means—

(a) every fishing vessel, as defined in clause (12) of section 3;

(b) every sailing vessel, whether or not fitted with mechanical means of propulsion, solely engaged in fishing for profit;

(c) every boat or craft of any other type, used solely for fishing which the Central Government may, by notification in the Official Gazette, specify to be a fishing boat for the purposes of this section,

which is owned wholly by persons to each of whom any of the descriptions specified in clause (a) or in clause (b) or in clause (c), as the case may be, of section 21 applies or which satisfies such other requirements as the Central Government may, by notification in the Official Gazette, specify.

435C. Obligation to register. — Every Indian fishing boat shall be registered under this Part:

Provided that any Indian fishing boat registered at the commencement of this Part under Part V or Part XV of this Act or any other law for the time being in force in India shall be deemed to have been registered under this Part:

Provided further that every Indian fishing boat so deemed to have been registered shall be re-registered under this Part within such period from the commencement of this Part as the Central Government may, by notification in the Official Gazette, specify:

Provided also that registration of non-mechanised sailing vessels will commence in different ports on such dates as the Central Government may, by notification in the Official Gazette, specify.

435D. Port of registry. — (1) The ports at which registration of Indian fishing boats shall be made shall be such ports or places in India as the Central Government may, by notification in the Official Gazette, declare to be ports or places of registry under this Part.

(2) The port or place at which an Indian fishing boat is registered for the time being under this Part, shall be deemed to be her port or place of registry and the port or place to which she belongs.

435E. Registrars of Indian fishing boats. — The Central Government may, by notification in the Official Gazette, appoint an officer to be registrar of Indian fishing boats (hereafter in this Part referred to as registrar) at every port or place declared as a port or place of registry under sub-section (1) of section 435D.

435F. Application for registry. — An application for the registry of an Indian fishing boat shall be made —

(a) in the case of an individual, by the person requiring to be registered as owner or by his agent;

(b) in the case of more than one individual requiring to be so registered, by one or more of the persons so requiring or by his or their agent or agents, as the case may be; and

(c) in the case of a company or a co-operative society requiring to be so registered, by its agents;

and the authority of the agent shall be testified in writing, if appointed by an individual under the hand of the person appointing him and, if appointed by a company or a co-operative society under its common seal.

435G. Certificate of registry. — (1) The owner of every Indian fishing boat required to be registered under this Part shall make an application in the prescribed form to the registrar for the grant to him of a certificate of registry in respect of the fishing boat.

(2) The owner of every Indian fishing boat in respect of which an application under sub-section (1) is made, shall cause the tonnage of the fishing boat to be ascertained in the prescribed manner.

(3) The registrar may make such inquiry as he thinks fit with respect to the particulars contained in such application and shall enter in a register to be kept for the purpose (hereinafter referred to as fishing boats register) the following particulars in respect of the Indian fishing boat, namely:—

(a) the name of the fishing boat, the place where she was built and the port to which she belongs;

(b) the rig, type and tonnage of the fishing boat;

(c) the number assigned to the fishing boat;

(d) the name, occupation and residence of the owner of the fishing boat;

(e) the mortgages, if any, effected by the owner in respect of the fishing boat; and

(f) such other particulars as may be prescribed.

(4) After the particulars in respect of the Indian fishing boat have been entered in the fishing boats register under sub-section (3), the registrar shall grant to the applicant a certificate of registry in the prescribed form.

(5) The owner of every Indian fishing boat shall pay for each certificate of registry a fee according to such scale as may be prescribed by the Central Government having regard to the tonnage of the fishing boat, but in no case exceeding one rupee per ton of its gross tonnage.

(6) An Indian fishing boat required to be registered under this Part but not so registered may be detained by a proper officer until the owner, skipper, tindal or other person in charge of the fishing boat produces a certificate of registry in respect of the fishing boat.

435H. Particulars relating to Indian fishing boats to be painted. — The owner of every Indian fishing boat so registered shall, before commissioning the fishing boat into service, paint or cause to be painted permanently in the prescribed manner on some conspicuous part of the fishing boat, the name by which the fishing boat has been registered, the number assigned to the fishing boat by the registrar and the port or place to which she belongs, and shall take all steps to ensure that the fishing boat remains painted as required by this section.

435I. Change of name of Indian fishing boat. — A change shall not be made in the name of an Indian fishing boat registered under this Part except in accordance with rules made in this behalf.

435J. Special provision for Indian fishing boats. — Every Indian fishing boat registered under this Part shall carry on board such life saving appliances and fire appliances as are prescribed by rules made under sections 288, 289 and 457 or under any other provision of this Act, subject to such exemptions as may be specially granted in respect of such fishing boat.

435K. Certificate of inspection. — (1) No Indian fishing boat shall ply or proceed to sea unless there is in force in respect of that fishing boat a certificate of inspection granted under this Part.

(2) A certificate of inspection in respect of an Indian fishing boat shall specify—

- (a) the name and tonnage of the fishing boat;
- (b) the name of skipper, tindal or other person in charge of the fishing boat;
- (c) the maximum number of members of crew the fishing boat is certified to carry;
- (d) the safety equipments and appliances the fishing boat is required to carry on board;
- (e) such other matters as the Central Government may think fit to specify,

and shall contain a statement to the effect that her hull, rigging, equipment and machinery where fitted are in good condition.

(3) Every certificate of inspection shall be in force from the date of issue for a period of one year or for such shorter period as may be specified therein:

Provided that when an Indian fishing boat is at sea at the time of expiry of the certificate, the certificate shall continue to be valid until her first arrival at a port or place in India.

435L. Cancellation, re-issue, etc., of certificate of inspection. — (1) Where at any time subsequent to the issue of a certificate of inspection in respect of an Indian fishing boat, the registrar has reason to believe that the fishing boat is not fit to proceed to sea, he may, after giving the owner an opportunity of making a representation, cancel such certificate.

(2) Where at any time subsequent to the issue of a certificate of inspection an Indian fishing boat has undergone material alteration or has met with accident or, where the certificate of inspection has been cancelled under sub-section (1) and the application is made for the re-issue of such certificate or for the grant of a fresh certificate, the registrar may, before re-issuing the certificate or issuing a fresh certificate, as the case may be, cause such fishing boat to be inspected; and if the authority inspecting the fishing boat reports that she is not fit to proceed to sea or that her hull, rigging or equipment are defective, such certificate shall not be re-issued or issued until the fishing boat is, in the opinion of such authority, fit to proceed to sea or the defect is rectified to the satisfaction of that authority.

435M. Inspection of safety equipments and appliances. — (1) Any surveyor appointed under section 9, any registrar appointed under section 435E or any other officer appointed by the Central Government

in this behalf by notification in the Official Gazette may at any reasonable time inspect any Indian fishing boat for the purpose of seeing that she is properly provided with safety equipments and appliances in conformity with the rules referred to in section 435J.

(2) If the surveyor, or, as the case may be, the registrar or other officer appointed under sub-section (1) finds that the Indian fishing boat is not provided with the aforesaid equipments and appliances, he shall give to the owner, skipper or tindal or any other person in charge of the fishing boat a notice in writing pointing out the deficiency and also what in his opinion is requisite to remedy the said deficiency.

(3) No Indian fishing boat served with a notice under sub-section (2) shall proceed to sea until it obtains a certificate signed by the surveyor, registrar or other officer appointed under sub-section (1) to the effect that it is properly provided with safety equipments and appliances in conformity with the aforesaid rules.

435N. Registration of alteration. — When an Indian fishing boat is so altered as not to correspond with the particulars relating to her entered in the certificate of registry, the owner of such fishing boat shall make a report of such alterations to the registrar of the port or place where the fishing boat is registered, and the registrar shall either cause the alterations to be registered, or direct that the fishing boat may be registered anew, in accordance with such rules as may be made in this behalf.

435O. Transfer of registry. — The registry of an Indian fishing boat may be transferred from one port or place to another port or place in India on the application of the owner of the fishing boat, in accordance with such rules as may be made in this behalf.

435P. Closure of registry. — If an Indian fishing boat is lost, destroyed or rendered permanently unfit for service, the owner of such fishing boat shall, with the least possible delay, report the fact to the registrar of the port or place where the fishing boat is registered and also forward to him certificate of registry in respect of the fishing boat; and thereupon the registrar shall have the registry of the fishing boat closed.

435Q. Restriction on transfer of Indian fishing boats. — No person shall transfer or acquire any Indian fishing boat registered under this Part or any interest therein without the previous approval of the Central Government; and any transaction effected in contravention of this section shall be void and unenforceable.

435R. Mortgage of Indian fishing boats. — (1) Every mortgage of an Indian fishing boat or any interest therein effected after the date on which this Part comes into force shall be registered with the registrar:

(2) Every mortgage of an Indian fishing boat or any interest therein effected before the date on which this Part comes into force shall, if subsisting on that date, be registered with the registrar within three months from that date.

(3) The registrar shall enter every such mortgage in the fishing boats register in the order in which it is registered with him.

(4) If there are more mortgages than one recorded in respect of the same Indian fishing boat or interest therein, the mortgages shall, notwithstanding any express, implied or constructive notice, have priority according to the date on which each mortgage is registered with the registrar and not according to the date of each mortgage itself:

Provided that nothing contained in this sub-section shall affect the relative priorities as they existed immediately before the date on which this Part comes into force as between mortgages of the same fishing boat or interest therein effected before such date which are registered in accordance with the provisions of sub-section (2).

435S. Fraudulent use of certificate of registry or certificate of inspection, etc., prohibited.— (1) No person shall use or attempt to use the certificate of registry or the certificate of inspection granted in respect of an Indian fishing boat for any purpose other than the lawful operation of that fishing boat.

(2) No person shall use or attempt to use for the operation of an Indian fishing boat, a certificate of registry or a certificate of inspection not granted in respect of that fishing boat.

(3) No person who has in his possession or under his control the certificate of registry or the certificate of inspection of an Indian fishing boat shall refuse or omit without reasonable cause to deliver such certificate on demand to the owner of the fishing boat.

435T. Statement relating to crew of Indian fishing boat to be maintained.— (1) Every owner, skipper, tindal or other person in charge of a mechanised Indian fishing boat of 25 registered tons and above shall maintain or cause to be maintained in the prescribed form a statement of the crew of the fishing boat containing the following particulars with respect to each member thereof, namely:—

- (a) his name;
- (b) the wages payable to him;
- (c) the names and addresses of his next-of-kin;
- (d) the date of commencement of his employment; and
- (e) such other particulars as may be prescribed.

Provided that the Central Government may, if it is of opinion that it is necessary or expedient so to do, and for reasons to be recorded in writing, exempt, by general or special order, any Indian fishing boat or class of Indian fishing boats from the provisions of this sub-section.

(2) Every change in the crew of the Indian fishing boat shall be entered in the statement under sub-section (1).

(3) A copy of such statement and of every change entered therein shall be communicated as soon as possible to the registrar of the port or place of registry of the Indian fishing boat concerned.

435U. Power to make rules respecting Indian fishing boats.— (1) The Central Government may make rules to carry out the provisions of this Part.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form in which applications for certificates of registry shall be made and the particulars which such applications should contain;

(b) the manner in which tonnage of an Indian fishing boat shall be ascertained;

(c) the form in which fishing boats register shall be maintained;

(d) the forms in which certificates of registry and certificates of inspection may be issued;

(e) the fees which may be levied for the issue or re-issue of certificates of registry or certificates of inspection and for all other purposes of this Part;

(f) the manner in which the name, number assigned to the Indian fishing boat and name of the port or place to which she belongs shall be painted;

(g) the manner in which any change may be made in the name of an Indian fishing boat;

(h) any exemption from the requirements relating to carriage of safety equipment and appliances by an Indian fishing boat that may be specially granted under section 435J in respect of such fishing boat;

(i) the manner in which alterations in Indian fishing boats shall be reported and applications for the registry of such alterations in the certificates of registry of Indian fishing boats shall be made, the endorsement of the particulars of alterations on the certificates of registry, the grant of provisional certificates in cases where Indian fishing boats are directed to be registered anew, the period for which provisional certificates shall be valid and all other matters ancillary to the registry of alterations;

(j) the manner in which registry of an Indian fishing boat may be transferred from one port or place in India to another port or place in India;

(k) the form in which statement of members of crew of an Indian fishing boat may be maintained;

(l) any other matter which has to be or may be prescribed.

435V. Application to Indian fishing boats of other provisions relating to ships.— The Central Government may, by notification in the Official Gazette, direct that any provisions of this Act other than those contained in this Part which do not expressly apply to Indian fishing boats shall also apply to Indian fishing boats subject to such conditions, exceptions and modifications as may be specified in the notification.

435W. Fishery data to be furnished by Indian fishing boats.— The Central Government may, by notification in the Official Gazette, require every

Indian fishing boat or any specified class of Indian fishing boats to furnish such fishery data to the registrar in such form and at such periodical intervals as may be specified in that notification.

435X. Power to exempt.—Notwithstanding anything contained in this Part, the Central Government may, by order in writing, and upon such conditions as it may think fit to impose, exempt any Indian fishing boat or class of Indian fishing boats or skipper, tindal or member of crew of such fishing boat or class of fishing boats from any specified requirement contained in or prescribed by any rules made in pursuance of any provision of this Part or from any other requirement of this Act extended to Indian fishing boats or to personnel employed on Indian fishing boats by a notification issued under

section 435V, if it is satisfied that the requirement is substantially complied with or the compliance with the requirement may be impracticable or unreasonable in the circumstances attending the case.

16. Amendment of section 436.—In section 436 of the principal Act, in sub-section (2), in the Table,—

(i) against Serial Number 100, in the fourth column, for the words “one thousand rupees”, the words “five thousand rupees” shall be substituted;

(ii) for Serial Numbers 115B, 115C and 115D and the entries relating thereto, the following shall be substituted, namely:—

1	2	3	4
“115B (a) If oil or oily mixture is discharged in contravention of sub-section (1) of section 356C—			
(i) where such discharge is made from an Indian tanker anywhere into the sea;	356C(I)	The master of the tanker shall be liable to fine which may extend to five lakh rupees.	
(ii) where such discharge is made from a foreign tanker anywhere within the coastal waters of India.	356C(I)	The master of the tanker or if the tanker is unmanned the person in charge of its operation shall be liable to fine which may extend to five lakh rupees.	
(b) If oil or oily mixture is discharged in contravention of sub-section (2) of Section 356C—			
(i) where such discharge is made by an Indian ship other than a tanker anywhere into the sea;	356C(2)	The master of the ship shall be liable to fine which may extend to five lakh rupees.	
(ii) where such discharge is made by a foreign ship other than a tanker anywhere within the coastal waters of India.	356C(2)	The master, or if the ship is unmanned, the person in charge of its operation shall be liable to fine which may extend to five lakh rupees.	
(c) If oil or oily mixture is discharged in contravention of sub-section (3) of section 356C.	356C(3)	The master of the off-shore installation if it be a mobile craft or the owner, operator, lessee or licensee of an off-shore installation of any other type shall be liable to fine which may extend to five lakh rupees.	
115C If an Indian ship is not fitted with equipment prescribed under section 356E.	356E	The owner, master or agent of the Indian ship shall be liable to fine which may extend to ten thousand rupees.	
115D (i) If the master of an Indian tanker or other Indian ship fails to maintain an oil record book as required by section 356F or contravenes any rule made under that section;	356F	The master of the Indian tanker or other Indian ship shall be liable to fine which may extend to five thousand rupees.	
(ii) If any person wilfully destroys or mutilates or renders illegible or prevents the making of, any entry in the oil record book or makes or causes to be made a false entry in such book in contravention of any rule made under section 356F.	356F	The offender shall be liable to penalty of imprisonment which may extend to six months or fine which may extend to ten thousand rupees or both.	
115E If master of any ship refuses to certify copy of any entry in the oil record book to be a true copy of such entry as required under sub-section (2) of section 356G.	356G(2)	The master of the ship shall be liable to fine which may extend to one thousand rupees.	
115F If any person fails to take action as required by a notice served on him under sub-section (1) of section 356J.	356J(I)	The offender shall be liable to penalty of imprisonment which may extend to six months or fine which may extend to ten lakh rupees or both.	
115G If owner of any Indian ship, tug, barge or any other equipment fails to comply with any order issued under sub-section (1) of section 356L.	356L(I)	The offender shall be liable to penalty of imprisonment which may extend to six months or fine which may extend to one lakh rupees, or both and if the offence is a continuing one the offender shall be liable to a further fine which may extend to ten thousand rupees per day for every day during which the offence continues after conviction.”;	

(iii) after Serial Number 137 and the entries relating thereto, the following shall be inserted, namely:—

1	2	3	4
137A	If an Indian fishing boat required to be registered under section 435C is not registered in accordance with the provisions of that section.	435C	The owner shall be liable to fine which may extend to one thousand rupees.
137B	If the owner of an Indian fishing boat fails to comply with the provisions of section 435H.	435H	The owner shall be liable to fine which may extend to two hundred rupees.
137C	If provisions of section 435I are contravened.	435I	The owner shall be liable to fine which may extend to two hundred rupees.
137D	If provisions of section 435J are contravened.	435J	The owner, skipper, tindal or any other person in charge of the Indian fishing boat shall be liable to fine which may extend to one thousand rupees and in addition to fine which may extend to fifty rupees for every day during which the offence continues after conviction.
137E	If provisions of section 435K are contravened.	435K	The owner, skipper, tindal or any other person in charge of the Indian fishing boat shall be liable to fine which may extend to one thousand rupees and in addition to fine which may extend to fifty rupees for every day during which the offence continues after conviction.
137F	If provisions of section 435M are contravened.	435M	The owner shall be liable to fine which may extend to one thousand rupees and in addition to fine which may extend to fifty rupees for every day during which the offence continues after conviction.
137G	If provisions of section 435N are contravened.	435N	The owner shall be liable to fine which may extend to two hundred rupees and in addition to fine which may extend to twenty rupees for every day during which the offence continues after conviction.
137H	If provisions of section 435P are contravened.	435P	The owner shall be liable to fine which may extend to two hundred rupees.
137I	If any person contravenes the provisions of section 435Q.	435Q	The offender shall be liable to fine which may extend to five hundred rupees.
137J	If any person contravenes the provisions of section 435S.	435S	The offender shall be liable to imprisonment which may extend to three months or fine which may extend to two hundred rupees, or both.
137K	If provisions of section 435T are contravened.	435T	The owner, skipper, tindal or any other person in charge of the Indian fishing boat shall be liable to fine which may extend to two hundred rupees."

17. *Amendments relating to references to Act 5 of 1898.*—The amendments directed in the Schedule (being amendments for substituting for the references in the principal Act to the provisions of, and

authorities under, the Code of Criminal Procedure, 1898, references to the corresponding provisions of, and authorities under, the Code of Criminal Procedure, 1973) shall be made in the principal Act. 2 of 1974.

THE SCHEDULE

(See section 17)

Amendments to The Merchant Shipping Act, 1958
(44 OF 1958)

1. In section 35 of the principal Act, in sub-section (3), for the words "any magistrate of the first class" and "the magistrate", the words "any Judicial Magistrate of the first class or any Metropolitan Magistrate, as the case may be," and "the said Magistrate" shall, respectively, be substituted.

2. In section 132 of the principal Act, in sub-section (3), for the words "a magistrate", the words "a Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be," shall be substituted.

3. In section 145 of the principal Act, in sub-section (1),—

(a) for the words "any magistrate", the words "any Judicial Magistrate of the first class or any Metropolitan Magistrate, as the case may be," shall be substituted;

(b) for the words "the magistrate" at both the places where they occur, the words "such Magistrate" shall be substituted.

4. In section 146 of the principal Act, in clause (c), for the words "a magistrate", the words "a Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be," shall be substituted.

5. In section 184 of the principal Act, for the words "a magistrate" at both the places where they occur, the words "a Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be," shall be substituted.

6. In section 187 of the principal Act, in sub-section (2), for the words "a magistrate", the words "a Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be," shall be substituted.

7. In section 189 of the principal Act, for the words "a magistrate", the words "a Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be," shall be substituted.

8. In section 233 of the principal Act, in sub-section (3), for the words "nearest magistrate", the words "nearest Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be," shall be substituted.

9. In section 279 of the principal Act, in sub-section (4), for the words "presidency magistrate or a magistrate of the first class", the words "Metropolitan Magistrate or a Judicial Magistrate of the first class" shall be substituted.

10. In section 282 of the principal Act, in clause (s), for the word "magistrates", the words "Metropolitan Magistrates or Judicial Magistrates of the first class, as the case may be," shall be substituted.

11. In section 361 of the principal Act, for the words "A magistrate of the first class" and "presidency magistrate", the words "A Judicial Magistrate of the first class" and "Metropolitan Magistrate" shall, respectively, be substituted.

12. In section 372 of the principal Act, —

(a) in sub-section (1), for the words "magistrate of the first class" and "presidency magistrate", the words "Judicial Magistrate of the first class" and "Metropolitan Magistrate" shall, respectively, be substituted;

(b) in sub-section (3), for the word "magistrate", the words "Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be," shall be substituted;

(c) in sub-section (4), for the word "magistrate", the words "Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be," shall be substituted.

13. In section 383 of the principal Act, in sub-section (2), for the words "presidency magistrate, magistrate of the first class", the words "Metropolitan Magistrate, Judicial Magistrate of the first class" shall be substituted.

14. In section 401 of the principal Act, for the word "magistrate", the words "Judicial Magistrate of the first class or Metropolitan Magistrate, as the case may be," shall be substituted.

15. In section 402 of the principal Act, —

(a) in sub-section (4), in clause (a), for the word "magistrate", the words "Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be," shall be substituted;

(b) in sub-section (5), for the words "the magistrate or the High Court, as the case may be," and "the magistrate", the words "the Judicial Magistrate of the first class or the Metropolitan Magistrate or the High Court, as the case may be," and "such magistrate" shall, respectively, be substituted;

(c) in sub-section (6), for the words "a magistrate" and "the magistrate", wherever they occur, the words "a Judicial Magistrate of the first class or a Metropolitan Magistrate" and "such magistrate" shall, respectively, be substituted.

16. In section 439 of the principal Act, for the words "presidency magistrate or a magistrate of the first class", the words "Metropolitan Magistrate or a Judicial Magistrate of the first class" shall be substituted.

17. In section 440 of the principal Act, —

(a) for the words and figures "section 32 of the Code of Criminal Procedure, 1898", the words and figures 5 of 1898. "section 29 of the Code of Criminal Procedure, 1973" shall be substituted; 2 of 1974.

(b) for the words "presidency magistrate or a magistrate of the first class", the words "Metropolitan Magistrate or a Judicial Magistrate of the first class" shall be substituted.

18. In section 442 of the principal Act, in sub-section (1), —

(a) for the words "court or magistrate", the words "court or Judicial Magistrate of the first class or Metropolitan Magistrate" shall be substituted;

(b) for the words "court, magistrate", the words "court or Judicial Magistrate of the first class or Metropolitan Magistrate" shall be substituted;

(c) for the words "justice or magistrate", the words "or justice or Judicial Magistrate of the first class or Metropolitan Magistrate" shall be substituted;

(d) for the words "justice, magistrate", the words "justice or Judicial Magistrate of the first class or Metropolitan Magistrate" shall be substituted.

19. In section 445 of the principal Act, —

(a) in sub-section (1), for the words "court, magistrate" and "a magistrate", the words "court or Judicial Magistrate of the first class or Metropolitan Magistrate" and "such a magistrate" shall, respectively, be substituted;

(b) in sub-section (2), for the words "court, magistrate or other officer" and "court, magistrate, officer", the words "court or Judicial Magistrate of the first class or Metropolitan Magistrate or other officer" and "Court or Judicial Magistrate of the first class or Metropolitan Magistrate or officer" shall, respectively, be substituted.

20. In section 447 of the principal Act, for the words "A magistrate", the words "A Judicial Magistrate of the first class or a Metropolitan Magistrate, as the case may be," shall be substituted.